

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C 20268-0001

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In re:

Post Office at)
Akron-East Station)
1763 Goodyear Blvd., 44305)
Paul J. Connor Petitioner)

Docket No.

POSTAL REGULATORY
COMMISSION
OFFICE OF THE SECRETARY
A2011-16

APPLICATION FOR SUSPENSION OF DETERMINATION

Applicant, Paul J. Connor, hereby files the following Application for Suspension of Determination. Applicant, Paul J. Connor, receives mail service at 867 Morningview Ave., Akron, OH 44305 and is served by the Akron-East post office. This Application is timely as it has been filed within thirty (30) days of the United States Postal Service's written determination to close the Akron-East post office. This Application is being filed contemporaneously with Applicant's Petition for Review.

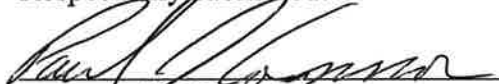
The reasons supporting the instant Application for Suspension of Determination are based upon the irreparable harm that will occur in the event the post office is closed prior to the conclusion of the appeals process. As this Commission is aware, the appeal process could take approximately four months.

This estimate is based upon the 120 day time period found in 39 USC § 404(d)(5). The Postal Service announced on April 11, 2011 that it will close the Akron-East post office at the close of business on June 17, 2011. Attached as Exhibit A. Pursuant to the 120 day time found in 39 USC § 404(d)(5), this Commission's decision may not be released until August 9, 2011. At that time, the Akron-East post office will have already been closed for 53 days.

This Commission may set aside the Postal Service's determination as being arbitrary, capricious, an abuse of discretion; without observance of procedure required by law; or, unsupported by the substantial evidence on the record. As this Commission will see, the Postal Service's determination to close the Akron-East post office was arbitrary, capricious, an abuse of discretion and unsupported by the substantial evidence on the record. Additionally, the Postal Service did not observe the procedure required by law. In the alternative, Applicant requests this Commission to order the entire matter be returned to the Postal Service for further consideration.

A Memorandum in Support is attached hereto, and incorporated herein by reference.

Respectfully submitted:



PAUL J. CONNOR
867 Morningview Ave.
Akron, OH 44305

Persons to receive service are:

COUNCILMAN JEFF FUSCO
Akron City Council
Municipal Building
166 High Street, 3rd Floor
Akron, OH 44308

COUNCILWOMAN KELLI CRAWFORD
Akron City Council
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Akron, OH 44308

MEMORANDUM

I. BACKDROP OF POST OFFICE CLOSURES AND IMPACT UPON AKRON, OHIO

Important to consideration of the *instant* Application for Suspension is the current backdrop of post office closings across the United States. On July 10, 2009 the Postal Service announced its intent to conduct a review of its retail network across the United States in an effort to consolidate, streamline and adjust its operations. This process was named the Postal Service Station and Branch Optimization and Consolidation Initiative (SBOC).

Initially, the review process involved the consideration of over 3,000 stations and branches nationwide. The number of stations under review dramatically decreased since the SBOC Initiative was announced. Currently, only 162 stations and branches remain under consideration for closure, have closed, or will close. To this Applicant's knowledge, none of those post offices closed under the SBOC Initiative have been successful in overturning closure.

What we do know is that a disproportionate of stations and branches that are to be closed are located in Ohio. Under the SBOC Initiative the Postal Service will close 25 post offices in Ohio. This accounts for 15% of all closings nationally, which is significant considering Ohio will lose more post offices than 33 other states *combined*.¹ Akron, Ohio is also disproportionately represented in the SBOC Initiative since the Postal Service will close four post offices located in

¹ Ohio will lose more post offices than Alaska, Arizona, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming combined.

Akron alone.² For the purposes of this Application, the closure of the Akron-East post office must be considered in light of these other closures and not in a vacuum.

The Postal Service is obligated to weigh a series of factors when closing post offices. Specifically, the post office must consider the responsiveness to community postal needs; the effect on the community; the effect on employees; potential cost savings; and, other important factors. When considering these factors, the number of residents and businesses that will be affected by these closures is staggering.

The Postal Service's decision to close four post offices in Akron, Ohio will affect more than 70,000 residents and 1,928 businesses. Due to these closures, the Postal Service will lose \$1,686,740.00 in annual revenue generated from walk in business. Closure of the Akron-East post office will affect more than 24,000 residents and 325 businesses. The Postal Service will lose an estimated \$422,280.00 in annual revenue from the Akron-East post office.

When examining the total number of closures in Ohio, and specifically in Akron, it is imperative that this Commission examine the process and analysis used by the Postal Service to close the Akron-East post office. It is crucial that the Postal Service strictly followed all applicable legislation and statutory authority governing closures to ensure that the residents of the Akron-East post office will not be negatively affected. As this Commission will see, the Postal Service did not follow proper procedure.

² For a point of reference, Akron, Ohio will lose as many post offices as the entire state of Georgia.

II. AKRON-EAST POST OFFICE

Historically, the Akron-East post office is situated within Goodyear Heights. This area was founded by the Goodyear Tire and Rubber Company to provide cost effective housing to its employees. This area of Akron has been recognized for its historical significance by both the State of Ohio as well as the Federal Government.

The State of Ohio recognizes a portion of this area for its architectural significance. The Federal Government has recognized the work of Warren H. Manning, an influential American landscape designer, who developed the street map and final plan for the Goodyear Heights development, as historically significant.

Statistically, the Akron-East postal region is home to 24,438 residents, in 10,526 households. It is home to 325 businesses and 432 business boxes. The Postal Service will move all of the Akron-East operations to the Akron-South Arlington Station located approximately three miles away.

III. THE STANDARD FOR CLOSURE UNDER 39 U.S.C. § 404.

The Postal Service is vested with the authority to, “*determine the need for post offices, postal and training facilities and equipment, and to provide such offices, facilities, and equipment as it determines are needed...*” 39 USCA § 404(a)(3). However the Postal Service’s authority to close post offices is not unfettered. The decision to close or consolidate a post office must be based on certain criteria. These include:

- Effect on the community served;

- Effect on the employees of the post office;
- Compliance with government policy established by law that the Postal Service must provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;
- Economic savings to the Postal Service; and,
- Any other factors the Postal Service determines necessary.

a. Effect on the community served.

Goodyear Heights is remerging as a viable town. It has recently been the center of a significant redevelopment project whereby private and public investment culminated in the \$900,000,000.00 Goodyear Tire and Rubber Company redevelopment project. This project includes construction of Goodyear's new world headquarters. This achievement is greater than any new commercial development in recent Akron history.

Additionally, closure of the Akron-East post office will affect the local schools in the area. Recently, federal, state and local governments have invested significant funds into the local school system. This investment has lead to the construction of a new high school, a middle school and two new grade schools. Two more school construction projects are underway.

The closure of the Akron-East post office will greatly affect the local residents and small business owners of Goodyear Heights. A substantial percentage of residents are above the age of sixty-five, without access to transportation, without internet service and rely on the proximity of the post office to mail and receive letters and packages. Customers of limited socio-economic means cannot afford the additional time and cost required to take public

transportation to post offices in other locations. Customers who live in multi-use dwellings and rent a post office box will have greater difficulty accessing their post office boxes.

Customers, like me, who operate small businesses, rely on an accessible post office for our regular usage of postal services. We will incur additional costs associated with the time and expense of travelling to a post office that is further away. New businesses may not locate within the Goodyear Heights area due to the absence of a convenient post office. Overall, closure will isolate those residents who cannot afford internet or computers, place an additional strain on small businesses, and drive away potential new businesses.

The alternative location proposed is unacceptable. The Postal Service advised all Akron-East post office customers to transfer their postal service needs to the Akron-South post office. The Akron-South post office is located approximately 3 miles away. This post office currently serves 23,304 residents, 10,903 households, 427 businesses and 540 business boxes. Essentially, the number of residents, households and businesses serviced by the Akron-South post office will double after the Akron-East station is closed. The Postal Service has not indicated whether this will provide a maximum degree of effective and regular postal service, increase wait times, or spread thin postal services.

These effects were well known to the citizens of the Akron-East post office. The customers held a rally in support to keep its post office open. This rally was held on October 2, 2010, and as a result of that rally, more than 2,100 signatures were received in opposition to the closure. The City of Akron passed

two resolutions opposing the closure, and Summit County passed a similar resolution opposing the closure also. Senator Sherrod Brown wrote the Postal Service and urged it to keep the Akron-East station open. All of this is in addition to the number of comments received by the Postal Service opposing the closure.

Whether the Postal Service considered this overwhelming opposition is unknown. To date, the Postal Service has not complied with legislation and statutory authority that require the public disclosure of the Administrative Record and the Final Determination.

b. Effect on the employees of the post office.

Since the Postal Service has not issued the Administrative Record or the Final Determination, the effect on the employees of the post office is unknown. It is further unknown whether the Postal Service took this information into consideration when it reached its decision to close the Akron-East post office.

I reserve the right to address this portion of this brief upon receipt of the Administrative Record and the Final Determination.

c. Compliance with government policy.

The Akron-East post office is a post office despite the anticipated argument of the Postal Service that the Akron-East post office is only a “station.” It is a post office as that term is ordinarily used, and it fits the description of a “post office” that the Postal Regulatory Commission has used in orders concerning the appeals of post office closings. (Docket A-2011-1).

The Postal Regulatory Commission has repeatedly cautioned the Postal Service against using the “post office / station” argument – *See March 10, 2010 Advisory Opinion Concerning the Process for Evaluating Closing Stations and Branches*. Accordingly, the Postal Service is without support for any argument that the safeguards governing closure do not apply to the closure of the Akron-East post office.

Since the Akron-East post office merits protection under 39 USC § 404(d), the Postal Service is required to strictly follow the procedure outlined therein. The Postal Service has not followed that procedure. First, the April 11, 2011 letter sent to the post office customers announcing the closure does not notify customers that the closure decision may be appealed. This omission is contrary to the requirements in 39 CFR § 241.3 and 3001.110.

Additionally, the April 11, 2011 letter entirely failed to include the findings with respect to certain considerations required to be made under 39 USC § 404(d)(2) and (3). This includes the effect of the closing on employees of the Postal Service employed at the Akron-East post office; and, the economic savings to the Postal Service. The April 11, 2011 letter also failed to cite any impact on the community at large – positive or negative. These omissions are in direct violation of the requirements of 39 USC § 404.

Further, the Postal Service has not made a copy of the complete Administrative Record available for public inspection during normal business hours at the Akron-East post office. The April 11, 2011 letter failed to advise the affected customers that pursuant to statutory authority and well established

precedent that the Postal Service was required to make the complete Administrative Record available for inspection during normal business hours. Similarly, the Postal Service has not made a copy of the Final Determination available for public inspection. This omission is contrary to 39 CFR § 241.3 and 39 CFR § 3001.112.

d. Economic savings to the Postal Service.

The potential economic savings are unknown since the Postal Service has not released the Administrative Record or the Final Determination. As this Commission is aware, in its *Advisory Opinion Concerning the Process for Evaluating Closing Stations and Branches* it found, “the Postal Service’s station and branch financial analysis methodology...is likely to overestimate the resulting savings and underestimate the costs of closing a station or branch.” *Advisory Opinion Concerning the Process for Evaluating Closing Stations and Branches*, pg. 59.

It is unknown whether the Postal Service relied on flawed methodology in analyzing the closure of the Akron-East post office. It is further unknown whether the Postal Service took any economic savings into consideration when it reached its decision to close the Akron-East post office since this information was not made available. I reserve the right to address this portion of this brief upon receipt of the Administrative Record and the Final Determination.

e. Any other factors the Postal Service determines necessary.

39 USC § 404(d)(2)(v) requires that the Postal Service shall consider, “such other factors as the Postal Service determines are necessary” when analyzing closure. The discretion to review these potential factors is left to the Postal Service and the Postal Service abused that discretion by not considering the significant investment to the Goodyear Heights area. It is unknown whether this investment was considered by the Postal Service at all in deciding whether to close the Akron-East post office because the Administrative Record and the Final Determination were never made available.

IV. PROCEDURAL DEFICIENCIES

In summary, the Postal Service did not observe proper procedure as required by law. Specifically, the Postal Service did not:

- Inform customers of their right to appeal the determination;
- Include required findings when notifying customers of the closing;
- Post the Final Determination at the Akron–East post office;
- Make the Administrative Record available for inspection;
- Consider the effects of closure on the community; or,
- Consider the impact of the recent Goodyear reconstruction project.

Further, the Postal Service’s determination is unsupported by the substantial evidence on the record. The affected area is home to approximately 24,538 individual taxpayers. The affected area has over 325 businesses with 9,197 estimated employees with an annual payroll of over \$534,377,000.

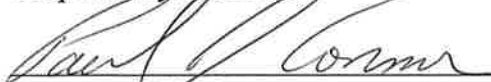
V. CONCLUSION

In light of the national, state and local significance of the Postal Service's decision to close 162 post offices across the United States, it is imperative that the Postal Service act with transparency and in conformance with statutory authority. This Commission is the only Agency to ensure that the proper procedure is followed when a post office is closed. To this Applicant's knowledge, not one jurisdiction has succeeded in overturning the Postal Service's decision to close a post office under the SBOC Initiative.

Based on the foregoing, that process was not followed by the Postal Service in closing the Akron-East post office. Due to the numerous procedural deficiencies and substantive merits of the appeal, the Akron-East post office should remain open until the conclusion of the Appeals process. Closing the Akron-East post office prior to the completion of the appeals process will cause irreparable harm to me, my small business, and the residents and businesses serviced by the Akron-East post office.

WHEREFORE, Paul J. Connor, hereby requests the Commission to suspend the closing of the Akron-East Post Office until the conclusion of the Appeals process.

Respectfully submitted:



PAUL J. CONNOR
867 Morningview Ave.
Akron, OH 44305

Persons to receive service are:

COUNCILMAN JEFF FUSCO

Akron City Council

Municipal Building

166 High Street, 3rd Floor

Akron, OH 44308

COUNCILWOMAN KELLI CRAWFORD

Akron City Council

Municipal Building

166 High Street, 3rd Floor

Akron, OH 44308

Northern Ohio District



April 11, 2011

Customer at: Akron – East Station
1763 Goodyear Blvd.
Akron, Ohio 44305

This is to inform you of the U.S. Postal Service's decision to close the Akron – East Station located at 1763 Goodyear Blvd., in Akron, Ohio 44305. We advised on July 10, 2009 of our intent to conduct a review of our retail network. Operations at the Akron – East Station will cease at the close of business, June 17, 2011; operations will be moved to the Akron – South Arlington Station located at 1237 South Arlington St., Akron, Ohio 44306

Because of the drastic decline in mail volume, the Postal Service is in a fiscal crisis and must take action to reduce the size of its retail and delivery network. By consolidating, streamlining and adjusting our operations, the Postal Service improves its efficiency and viability.

I want to assure you that the community's input was received and carefully considered before making this decision. Ultimately, based on all of the factors involved, the decision was made to proceed with the closure.

Local mail delivery will not be affected by this move. Full retail services will still be available in neighboring offices and our customers will continue to receive the same excellent service they always have. Customers with "Left Notice Slips" will be able to pick up these items at the Akron – South Arlington Station. The Post Offices, stations or branches nearest to the Akron – East Station are located at:

- Ellet Station 2390 Wedgewood Dr., Akron, Ohio 44312
- Tallmadge Post Office 162 Northeast Ave., Tallmadge, Ohio 44278
- South Arlington Station 1237 South Arlington St., Akron, Ohio 44306

However, a trip to the Post Office can be skipped altogether and you can purchase stamps and shipping labels online using the Postal Service's website, usps.com. You can also request free package pickup at usps.com. The Postal Service will pick up packages during regular mail delivery the next business day – and, unlike other shipping companies, there is no fee for this service. Postage stamps can also be purchased at 1.800.STAMP 24, thousands of banking ATMs and in more than 55,000 retail outlets across the nation.

If you have questions, or need additional information, please contact Victor Dubina, at (216) 443-4596.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Hawkins", written over a horizontal line.

Todd Hawkins
District Manager